



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Approval of Disability Discrimination policy and procedure.

MEETING DATE: May 20, 1992

PREPARED BY: Personnel Director

RECOMMENDED ACTION: That the City Council approve the Disability Discrimination policy and procedure in accordance with the provisions of the Americans with Disabilities Act of 1990.

BACKGROUND INFORMATION: The Americans with Disabilities Act of 1990 (ADA) passed by the United States Congress, effective January 26, 1992, prohibits all employers with 25 or more employees from discrimination against individuals with disabilities in the conduct of business, provision of services, and from employment. This policy demonstrates the City of Lodi's commitment to non-discriminatory practices on the basis of disability in the provision of its services to the community and its employees, and establishes a procedure ensuring the City's compliance with law and the resolution of complaints of alleged discriminatory acts as required by the ADA.

FUNDING: None.

Joanne M. Narloch
Personnel Director

JMN/lra

CC9210/TXTA.04P

APPROVED: _____

THOMAS A. PETERSON
City Manager

recycled paper

RESOLUTION NO. 92-96

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A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE DISABILITY DISCRIMINATION POLICY AND
THE DISABILITY DISCRIMINATION PROCEDURE FOR THE CITY OF LODI

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BE IT RESOLVED, that in compliance with the provisions of the Americans With Disabilities Act of 1990, passed by the United States Congress and effective January 26, 1992, the Lodi City Council hereby approves the City of Lodi's Disability Discrimination Policy, attached hereto as Exhibit A, and Disability Discrimination Procedure, attached hereto as Exhibit B, and incorporated herein by reference.

Dated: May 20, 1992

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I hereby certify that Resolution No. 92-96 was passed and adopted by the Lodi City Council in a regular meeting held May 20, 1992 by the following vote:

Ayes: Council Members -

Noes: Council Members -

Absent: Council Members -

Alice M. Reimche
City Clerk

92-96

RES9296/TXTA.01V

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: DISABILITY DISCRIMINATION
Policy

DATE ISSUED May 20, 1992

SECTION: D

REFERENCE Americans With Disabilities Act of 1990; The
Rehabilitation Act of 1973; California Fair
Employment and Housing Act.

SECTION 1: PURPOSE

The purpose of this policy is: to prohibit and eliminate any discrimination in the provision of public services and in employment against a qualified individual with a disability; to define what constitutes a "disability"; to define who is a 'qualified individual with a disability'; and to define discrimination on the basis of disability.

SECTION 2: POLICY

Discrimination on the basis of disability against a qualified individual with a disability in the provision of all public services of the City of Lodi, by any employee, or contractor with the City of Lodi, is not condoned and will not be tolerated.

This policy applies to the provision of all public services, programs, and activities of the City of Lodi including, but not limited to: public transportation; the issuance of licenses and permits; parks and recreation, and community center programs; payment of utility bills, fines and fees; selection of procurement contractors; and communications.

This policy applies to the job application process and to all terms and conditions of employment including, but not limited to: hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training.

All complaints of discrimination **on** the basis of disability will be promptly and objectively investigated. Disciplinary action up to and including termination will be instituted for behavior described in the definition of discrimination **on** the basis of disability set forth below.

Any retaliation against a **person** for filing a discrimination charge or making a discrimination complaint is prohibited.

SECTION 3: DEFINITIONS

A. **DISABILITY:** "Disability" is (1) **a** physical or mental impairment that substantially limits **one** or more major life activity; or (2) having a record of such **an** impairment; or (3) being regarded **as** having such **an** impairment.

B. **QUALIFIED INDIVIDUAL WITH A DISABILITY:**
An individual **with** a disability who, **with** or without reasonable modifications to rules, policies, or practices, **the** removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the City of **Lodi**.

In terms of employment, a "qualified individual with a disability" is **a person** who (1) satisfies the job **related** requirements for the position, and (2) can perform the "essential functions" of the position despite their disability, or who (3) with or **u** **it** "reasonable accommodation" **can** perform the **essen**tial functions of the position.

C. **DISCRIMINATION ON THE BASIS OF DISABILITY:** **No** qualified individual with a disability shall, by **reason** of such disability, be excluded from participation in or he denied **the** benefits of the services, programs, or activities of the City of **Lodi**, or **be** subjected **to** discrimination by any employee, or contractor with the City of Lodi.

Discrimination in employment on the basis of disability includes, but is **not** limited to the following actions:

A. To limit, segregate, or classify a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of disability;

B. To participate in a contractual or other arrangement or relationship that has the effect of subjecting the City's own qualified applicant or employee with a disability to discrimination;

C. To use standards, criteria or method of administration which are not job-related and consistent with business necessity, and that (1) have the effect of discriminating on the basis of disability or (2) perpetuate the discrimination of others who are subject to common administrative control;

D. To exclude or deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social or other relationship or association;

E. To fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue hardship;

F. To use qualification standards, employment tests or other selection criteria that screen out an individual with a disability or a class of individuals with disabilities on the basis of disability, unless the standard, test or other selection criteria, used is shown to be job-related for the position in question and is consistent with business necessity; and

G. To fail to select and administer tests concerning employment in the most effective manner to ensure that the test results accurately reflect the applicant's or employee's skills or aptitude for a particular job, rather than reflect that individual's disability.

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: DISABILITY DISCRIMINATION
Procedure

DATE ISSUED: May 20, 1992

SECTION: D

REFERENCE Americans With Disabilities Act of 1990; The
Rehabilitation Act of 1973; California Fair
Employment and Housing Act.

SECTION 1: PURPOSE

The purpose of this procedure is to identify the means by which the City of Lodi implements the provisions of the Americans With Disabilities Act of 1990, and to establish a procedure for investigating and resolving disability discrimination complaints.

SECTION 2: ADA COMPLIANCE COMMITTEE

The ADA Compliance Committee has been established by the City of Lodi, with the purpose of evaluating and making recommendations regarding the City's ability to provide services in accordance with the Americans With Disabilities Act of 1990. The committee is composed of one chairperson, appointed by the City Manager, who shall be regarded as the Chief Compliance Officer, and committee members representing various City departments. The committee members and/or other personnel may be designated, as deemed necessary by the chairperson, as Compliance Officers to assist in efforts to comply with federal and state laws concerning discrimination on the basis of disability.

SECTION 3: COMPLAINT RESOLUTION

The following procedure is intended **to** address the complaints of alleged discrimination **on** the basis of disability by the public and City employees. and is **not** intended to circumvent the established grievance procedures according **to** the appropriate memoranda of understanding.

A. Informal Procedure: In order **to assure** that further incidents do not occur, a citizen, job applicant, or employee who believes **he/she** has been subjected to discrimination **on** the basis of disability, should promptly inform the **person(s)** alleged to have committed discrimination that such conduct is prohibited. If a complaint **Cannot** be resolved, the complainant should promptly refer the matter **to** the appropriate immediate supervisor, department head, and/or the Chief Compliance Officer (or designee), who will be responsible to investigate and resolve the alleged incident(s) of discrimination.

B. Formal Procedure: A citizen, job applicant, or employee who **believes** he or **she** has **been** discriminated against **on** the basis of disability may make **a** written complaint **as soon as** possible after the incident **to** the Chief Compliance Officer. The complainant is **encouraged to** submit the complaint within thirty (30) calendar days, but **no** later than 180 days, of the alleged incident(s). Where reasonable circumstances prevent the filing of the complaint within this time period, complaints received after this time period may be accepted. Other **arrangements** for submission of a grievance **such as** a personal interview or **tape** recording will **be** made available for the visually-impaired or those with motor impairments. Submission of the complaint should be addressed **to:** ADA Chief Compliance Officer, c/o Office of the City Manager, 221 West Pine Street, P.O. Box 3006, Lodi, California 95240-1910.

(1). The complaint shall include: a description of the offending **behavior(s)** or violations; date(s), time(s) and **locations(s)** or incident(s); name(s) of alleged offender(s); name(s) of witnesses, if any; and remedy desired.

(2). Upon the receipt of a complaint, the Chief Compliance Officer (and/or **designee(s)**) shall **investigate** all charges. The investigation **shall** include interviews with: (a) the complainant; (b) the **person(s)** allegedly engaged in discrimination; and (c) any other **person** the Compliance Officer believes to have relevant knowledge concerning the complaint.

(3). ~~The Compliance Officer shall, within thirty (30) work days of receipt of the complaint, notify the complainant regarding the status of the investigation.~~

(4). ~~Upon completion of the investigation, the Compliance Officer shall review~~ factual information gathered through the investigation ~~to determine whether the alleged conduct constitutes~~ discrimination, giving consideration to all factual information, the totality ~~of the~~ circumstances, including the nature of the alleged discriminatory conduct and the context in which the alleged incidents occurred.

(5). ~~The Compliance Officer shall then prepare a written report setting forth the results of the investigation and the determination as to whether discrimination occurred. Such report with recommendation(s) shall be submitted to the City Manager for appropriate action. Such action shall include proper notification of the complainant.~~

RESOLUTION NO. 92-96
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RESOLUTION OF THE LODI CITY COUNCIL
THE DISABILITY DISCRIMINATION POLICY AND
DISCRIMINATION PROCEDURE FOR THE CITY OF LODI
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, that in compliance with the provisions of the
Americans with Disabilities Act of 1990, passed by the United States
on January 26, 1992. the Lodi City Council hereby
adopts Lodi's Disability Discrimination Policy, attached
and Disability Discrimination Procedure, attached
and incorporated herein by reference.

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that Resolution No. 92-96 was passed and adopted
on May 20, 1992 in a regular meeting held May 20, 1992 by the

1 Members - Hinchman, Pennino, Sieglack and
Pinkerton (Mayor)

1 Members - None

1 Members - Snider

Alice M. Reimche
Alice M. Reimche
City Clerk

92-96

SUBJECT	DISABILITY DISCRIMINATION <i>Policy</i>
DATE ISSUED:	May 20, 1992
SECTION	D
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This policy applies to the provision of all public services, programs, and activities of the City of **Mi** including, but not limited to: public transportation; the issuance of licenses and permits; **parks** and recreation, and community Center programs; payment of utility bills, fines and fees; selection of procurement contractors; and communications.

This policy applies to the job application process and to all terms and conditions of employment including, but not limited to: hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave **of** absence, compensation and training.

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Any retaliation against a person for filing a discrimination charge or making a discrimination complaint is prohibited.

SECTION 3

DEFINITIONS

A. DISABILITY: "Disability" is (1) a physical or mental impairment that substantially limits one or more major life activity; or (2) having a record of such an impairment; or (3) being regarded as having such an impairment.

B. QUALIFIED INDIVIDUAL WITH A DISABILITY: An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the City of Lodi.

In terms of employment, a "qualified individual with a disability" is a person who (1) satisfies the job related requirements for the position, and (2) can perform the "essential functions" of the position despite their disability, or who (3) with or without "reasonable accommodation" can perform the essential functions of the position.

C. DISCRIMINATION ON THE BASIS OF DISABILITY: No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the City of Lodi, or be subjected to discrimination by any employee, or contractor with the City of Lodi.

CITY OF LODI ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

Section: D

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Discrimination in employment **on** the basis of disability includes, but **is not** limited **to** the following actions:

A. To limit, segregate, or classify a **job** applicant or employee in a way that adversely affects his or her employment opportunities **or** status **on** the basis of disability;

B. To participate in a contractual or other arrangement **or** relationship that has the effect of **subjecting** the City's own qualified applicant **or** employee with a disability to discrimination;

C. **To use standards, criteria or method** of administration which **are** not job-related and consistent with business necessity, and that (1) have the effect of discriminating **on** the basis **of** disability or (2) **perpetuate** the discrimination of others who **are** **subject** to common administrative control;

D. To **exclude** or deny equal **jobs or** benefits to a qualified individual **because of** the known disability of **an** individual with whom the qualified individual is **known** to have a family, business, **social** or other relationship or association;

E. To fail to make **reasonable accommodations to know** physical **or mental** limitations of an **otherwise** qualified individual unless it **can** be shown that the **accommodation** would impose an undue hardship;

F. To **use** qualification **standards**, employment tests or **other** selection **criteria** that **screen out** an individual with **a** disability or a **class of** individuals with disabilities **on** the basis of disability, **unless** the standard, test or other selection criteria **used** is shown to **be** job-related for the position in question and is consistent with business necessity; and

G. To fail to select **and** administer tests **concerning** employment in the **most effective** manner to **ensure** that the **test** results accurately reflect the applicant's **or** employee's skills or aptitude for a particular job, rather than **reflect** that individual's disability.

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

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CITY OF LODI ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

Section: D

Page 3 of 3

(3). The Compliance Officer shall, within thirty (30) work days of receipt of the complaint, notify the complainant regarding the status of the investigation.

(4). Upon completion of the investigation, the Compliance Officer shall review factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, giving consideration to all factual information, the totality of the circumstances, including the nature of the alleged discriminatory conduct and the context in which the alleged incidents occurred.

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